

BILL LOCKYER, Attorney General
of the State of California
GAIL M. HEPPELL,
Supervising Deputy Attorney General
STEPHEN M. BOREMAN, State Bar No. 161498
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 445-8383
Facsimile: (916) 327-2247

Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D-2005-64282

PAUL MATHIAS TUOMAINEN, A.T.
920 35th Street, #2
Sacramento, CA 95816

A C C U S A T I O N

Physical Therapy Assistant No. AT 4481

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about August 23, 1996, the Physical Therapy Board of California issued Physical Therapy Assistant Number AT 4481 to Paul Mathias Tuomainen, A.T. (Respondent). The Physical Therapy Assistant license was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2007, unless renewed.

///

///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

4. Section 2660 of the Code states in relevant part:

“The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.

“(a) The use . . . of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public. . .constitutes unprofessional conduct. The record of conviction is conclusive evidence of such unprofessional conduct.”

“(a) In any order issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to

1 exceed the actual and reasonable costs of the investigation and prosecution of the
2 case.

3 “... (c) When the payment directed in an order for payment of costs is not
4 made by the licensee, the board may enforce the order of payment by bringing an
5 action in any appropriate court. This right of enforcement shall be in addition to
6 any other rights the board may have as to any licensee directed to pay costs.

7 “(d) In any judicial action for the recovery of costs, proof of the board's
8 decision shall be conclusive proof of the validity of the order of payment and the
9 terms for payment.

10 “(e) (1) Except as provided in paragraph (2), the board shall not renew or
11 reinstate the license or approval of any person who has failed to pay all of the
12 costs ordered under this section.

13 (2) Notwithstanding paragraph (1), the board may, in its discretion,
14 conditionally renew or reinstate for a maximum of one year the license or
15 approval of any person who demonstrates financial hardship and who
16 enters into a formal agreement with the board to reimburse the board
17 within that one year period for those unpaid costs.

18 “(f) All costs recovered under this section shall be deposited in the
19 Physical Therapy Fund as a reimbursement in either the fiscal year in which the
20 costs are actually recovered or the previous fiscal year, as the board may direct.”

21 FIRST CAUSE FOR DISCIPLINE
22 (Conviction of a Crime Substantially Related)
23 [Bus. & Prof. Code Sections 2660 (d) and (i)]

24 7. Respondent is subject to disciplinary action under sections 2660 (d) and (i)
25 and section 2239 of the Code, in that respondent was convicted of a crime substantially related to
26 the functions, duties or qualifications of a Physical Therapy Assistant. The circumstances are as
27 follows:

28 8. On or about June 6, 2005, respondent was arrested at a Sacramento Police
Department alcohol check-point in the City of Sacramento, California, for driving under the

1 influence in violation of California Motor Vehicle Code section(s) 23152 (A) [Driving Under the
2 Influence of Alcohol] and 23152 (B) [Driving with Blood Alcohol Exceeding .08%]. After
3 performing field tests poorly, a “breathalyzer” test administered to respondent at the Sacramento
4 County Jail test revealed a blood-alcohol content of .16%. On or about July 18, 2005, respondent
5 pled guilty in California Superior Court, County of Sacramento, case number 05T02672, to
6 violating Motor Vehicle Code section 21352 (B), [Driving with Blood Alcohol in Excess of .08].
7 Respondent was sentenced to 48 hours of jail time, with fine and penalty assessments.
8 Respondent’s driver’s license was suspended from July 19, 2005 to November 18, 2005.

9 SECOND CAUSE FOR DISCIPLINE
(Excessive Use of Alcohol)
10 [Bus. & Prof. Code Sections 2660 (i) and 2239]

11 9. Complainant re-alleges paragraph 8, above, and incorporates it by
12 reference herein as if fully set forth at this point.

13 10. Respondent is subject to disciplinary action under sections 2660 (i) and
14 2239 in that he was convicted of driving with a blood alcohol level in excess of .16%, thereby
15 demonstrating use of alcohol to such an extent that respondent presented a danger to himself, to
16 others, or to the general public.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein
19 alleged, and that following the hearing, the Physical Therapy Board of California issue a
20 decision:

21 1. Revoking or suspending Assistant Physical Therapist Number AT 4481,
22 issued to Paul Mathias Tuomainen, A.T.;

23 2. Ordering Paul Mathias Tuomainen, A.T. to pay the Physical Therapy
24 Board of California the reasonable costs of the investigation and enforcement of this case,
25 pursuant to Business and Professions Code section 2661.3;

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Taking such other and further action as deemed necessary and proper.

DATED: November 3, 2006

Original Signed By: _____
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California, Complainant

03575-160-SA2006300699
SMB:mc
accusation.2-27-06